IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3890 OF 2005

Dr.Kamat Dinesh Gajanan & Ors. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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Mr. U. P. Warunjikar for the Petitioners.
Mr. V. P. Malvankar, AGP for the Respondents.

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CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 21, 2005.

P.C.:

The Petitioners have in these proceedings under Article 226 of the Constitution sought the issuance of a writ of Mandamus for the award of proportionate grace marks in Paper-I in Physics and Chemistry at the MH-CET-2005 Examination held by the State Government on 12th May 2005.

2. The case of the Petitioners is that the Rules governing the holding of the Common Entrance Test under the authority of the Director of Medical Education and Research provided that

students would have to enter the Examination Hall at 9.30 a.m.; answer sheets would be distributed at 9.50 a.m.; the question paper would be distributed at 9.55 a.m. and the examination would commence at 10 a.m. According to the Petitioners, some of them were allotted the Examination Centre at Shree Chintaman Commerce College – Block No.3, while others were allotted Shree Kantilal Purushottam Das Shah Prashala - Block No.5 at Sangli. The examination was conducted by the State Government on 12th May 2005. According to the Petitioners, the question paper was distributed ten minutes late by the Supervisor. The answer sheets were, however, collected at 11.30 a.m. without giving any additional time. The grievance is that the Petitioners were given 80 minutes instead of 90 minutes to answer the paper. A written representation is stated to have been addressed by facsimile on 13th May 2005 to the Director of Medical Education and Research. According to the Petitioners, the Supervisor and Chief Conductor were employees of the Sales Tax and the Revenue Departments and that they were not trained. A representation was stated to have been addressed on behalf of the Petitioners and this not

having elicited any response, the Petitioners moved the Court under Article 226 of the Constitution.

3. An affidavit in reply has been filed by the Joint Director of Medical Education and Research and Competent Authority for conducting the Common Entrance Test for 2005. The allegations in the petition have been denied. The basic allegation that the examination was supervised by untrained staff is seriously objected to. The attention of the Court is drawn to the steps which have been taken to train the staff in charge of conducting the examination. It has been stated that an instructions booklet has been issued for the aid of all the Government employees involved in the conduct of the examination right from the District Collector to the Invigilator, in which the responsibilities to be discharged while conducting the examination have been defined. A programme in the form of a Power Point presentation has been uploaded on a CD in which instructions are stated to have been prepared in minute details for the indoor staff responsible for the conduct of the the examination. The CD, it has been stated, was used throughout the

State for giving extensive training to the staff involved in the conduct of examination. In so far as Centres in the District of Sangli are concerned, it has been stated that training programmes were held on 7th and 11th May 2005 at which the staff involved in the actual procedure of handing over and collecting question papers and answer sheets at the two blocks in question, were duly trained. The allegation that the examination material was supplied late has been denied. The Joint Director has stated in reply his that after receiving the complaint adverted to in the petition he conducted an enquiry and sought reports from all the persons who were concerned and involved in the conduct of the examination at the two blocks in question. It has been stated that at both the blocks, the distribution of answer papers was made on schedule at 9.50 a.m. and question papers were distributed at 9.55 a.m. The attention of the Court was drawn to the fact that there was not a single complaint of any student from the two blocks in question when the examination was going on and when the Supervisor in charge paid a visit on 3 to 4 occasions during the course of the examination. It has been stated that there was no apparent reason

for the distribution of the question paper late and only a few students, namely the Petitioners, have made a complaint, of the large number of students who appeared for the Common Entrance Test.

4. Having perused the reply affidavit filed by the Joint Director of Medical Education and Research, we are of the view that there is neither any merit in the allegation that the staff in charge of the examination was not trained, nor for that matter, in the contention of the Petitioners that the question papers were distributed late. It would appear that the complaints at Exhibits 'C' , 'D', 'F', ' Gand ' Hare all addressed by one Dr.D. G. Kamat. The allegation that the question papers were distributed late has been duly investigated into and the complaints have been found to lacking in any substance. There is merit in the submission that if there was any truth in the allegation, the complaints would not have been confined only to a few students out of the large body of students who appeared. The allegation that the question paper was distributed late stands denied. That apart, we are of the view that it would be impermissible for this Court in the exercise of the

jurisdiction under Article 226 of the Constitution to grant the relief which has been sought by directing the state to award "proportionate grace marks to the Petitioners" in Paper-I. The award of grace marks as prayed will disrupt the legitimate expectations of a large body of students who have appeared for the examination without any complaint. The exercise of the jurisdiction under Article 226 of the Constitution is clearly not warranted once we have come to the conclusion that there is absolutely no merit in the grievance of the Petitioners.

5. The Writ Petition accordingly stands dismissed.

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